

REMARKS/ARGUMENTS

Applicant requests reconsideration of the rejection of claims 1-7 and 6 (sic)-11 on allegedly new grounds of rejection, for the following reasons.

The "new ground" of rejection stated by examiner is a rejection of claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over Fisher (US 5,507,485) in view of Cooper et al ("Cooper," US 5,689,560). The rejection is traversed. Fisher is cited and applied on precisely the same basis as it was in previous rejections by examiner, including the rejection that led to applicant's appeal.

Cooper is cited by examiner for allegedly teaching the invocation of a gratis trial period for software that has a predefined restricted access and automatically inactive (sic) the software at the end of the gratis trial period unless the user makes payment for continuing the usage the software (sic). The same deficiencies apply to Cooper in the examiner's asserted combination with Fisher as applied to the attempted combination of Germain (US 5,319,548) and Fano (US 6,317,718) in the previous rejections applied by examiner.

The statutory provision mandating that obviousness be determined at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains, has been interpreted to impose the test set forth by the U.S. Supreme Court in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Further, MPEP §706.02(j) states:

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"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there *must be some suggestion or motivation*, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, *to modify the reference or to combine reference teachings*. Second, there must be a *reasonable expectation of success*. Finally, *the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). [Emphasis added].*

As in the previous rejections, none of the references cited and applied by examiner contains the slightest teaching or suggestion of the claim limitations in applicant's claims as presented herein and as previously presented in this application. The lack of teaching or suggestion by Fisher has been addressed by applicant repeatedly in previous responses in this application and need not be addressed again at this time.

Cooper expresses concern about the marketing difficulty of computer software because the potential user has little opportunity to browse the various products that are available, which are typically marketed in shrink-wrapped, closed boxes that leave the potential customer with little or no opportunity to actually interact with or experience the software prior to purchasing. This, Cooper states, forces the consumer to serially purchase a plurality of software products until an acceptable product is discovered, and leads to software piracy. By way of example, Cooper observes that a potential software purchaser often 'borrows' a set of diskettes from a friend or business associate, to use for a temporary period, but the use tends to continue unabated and the potential customer often fails to actually purchase a copy of the software product. Cooper further observes that the distribution of encrypted software products is unsatisfactory to resolve this problem because a key must be distributed to allow access to the product, and requires utmost reliance on the honesty and integrity of the potential customer, which is all too often absent.

Cooper's proposed solution to this dilemma is to allow the user a temporary trial period by providing a software object on a computer-accessible memory media along with a

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file management program. Upon receipt in the mail, the potential user loads the file management program into a user-controlled data processing system and associates it with the operating system for the data processing system. The file management program is executed by the user-controlled data processing system and restricts access to the software object for a predefined and temporary trial period, during which the software object is temporarily enabled by reversing the reversible functional limitation of the software object by decryption of the encrypted software object when the software object is called by the operating system of the user-controlled data processing system. The file management program also prevents copying operations, so the encrypted software project is temporarily decrypted when it is called by the operating system. If the potential user elects to purchase the software object, a permanent use mode of operation is entered, with permanent reversal of the functional limitation of the software object to allow unlimited use to the software object by the potential user, thereby facilitating browsing operations that allow the potential user to review the software and determine whether it suits his or her needs.

Clearly, Cooper's concerns that prompted his invention, and the desires of usage of his invention are completely different from those of applicant's invention. There is no desire for permanent usage of a purchased software program or a function of repeated usage of the same piece of software on a multitude of browsing.

Applicant's invention resides in providing a golfer commencing to play a round of golf and who may consider doing so using an unfamiliar cart-based golf course navigation and information system, the opportunity to learn some of the basic advantages of such a system in playing the course by accepting a gratis trial period at the outset of play. Rather than being required to make the decision to bear the cost of the cart-based system "sight unseen" for a full round of play, or to forgo its use and be assigned a cart with system graphics or display rendered inactive, the golfer can try the system out at no cost for a few holes, and then make a decision. As stated at page 4 of appellant's specification, a principal objective of the present invention is to provide a method and apparatus which gives the player a reasonable but limited opportunity to evaluate such a system during play of the course, and

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to then make an informed decision by the time a specified point in play of the round is reached, of whether or not to continue using the system to complete the round. If the golfer finds the system to be to his or her liking, a commitment to payment for its use is made; otherwise no commitment of payment need be made and the system is automatically shut down with no fee incurred by the golfer for its earlier use and no other disablement of the cart.

An aspect of the invention involves a method (claim 1) for administering use of a golf course information system (page 1, line 18 - page 3, line 11) implemented in golf carts (page 2, lines 13-21; 15, FIG. 1B) or other roving units with display monitor (14, FIG. 1B) adapted to provide display of any or all information from among course and hole layout (FIG. 1A), course features and distance to assist a golfer in play of the golf course (10, FIG. 1A), or of specific interest to the individual golfer from external networks including tournament and individual scoring, stock quotations and email (page 5, lines 4-8). The method includes invoking a gratis trial period less than an entire round of play of the course (page 9, lines 11-20; e.g., the first two holes 12 and 13, FIG. 1A) during which the cart display of such information is activated for a golfer commencing use of the cart (page 9, lines 13-14; 27, 28, FIG. 3); and automatically rendering the cart display of such information inactive at the end of the gratis trial period unless, by that point of play, a payment authorization for completion of the round with activated cart display has been made by a golfer using the cart (page 9, line 19 - page 10, line 8; 29, 30, 31, 32, FIG. 3).

Providing the golfer with a capability to enter a payment authorization during or at the end of the gratis trial period (claim 2; page 10, lines 9-13; page 11, lines 16-21) is achieved by outfitting the cart with that capability (claim 3; page 11, lines 18-20; page 14, lines 5-7 ; 17, FIG. 2A; 18, FIG. 2B; 19, FIG. 2C), or by locating a kiosk (claim 4; 16, FIGS. 1A, 1C) outfitted with that capability at a point of play to be traversed by the cart during or at the end of the gratis trial period (page 11, lines 18-20; page 14, lines 7-14). The capability may be provided (claim 5; page 15, line 18 - page 16, line 1) by at least one of a credit, debit or smart card reader, a paper currency reader, a keypad, a touch sensitive screen, an optical scanner, a

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magnetic scanner, or a wireless communicator (page 5, line 16 - page 6, line 4; page 8, lines 1-4; page 15, line 20 - page 16, line 9; 16, FIG. 1C; 17, FIG. 2A; 18, FIG. 2B; 19, FIG. 2C).

A variation of the invention is a method (claim 6) for administering use of a golf course information system (page 1, line 18 - page 3, line 11) implemented in golf carts (page 2, lines 13-21; 15, FIG. 1B) or other roving units with display monitor (14, FIG. 1B) adapted to provide display of any or all information from among course and hole layout, course features and distance (FIG. 1A) to assist a golfer in play of the golf course (10, FIG. 1A), or of specific interest to the individual from external networks including tournament and individual scoring, stock quotations and email (page 5, lines 4-8). This method includes establishing a gratis trial period less than an entire round of play of the course (page 9, lines 11-20; e.g., the first two holes 12 and 13, FIG. 1A) during which the cart display of such information is enabled for a golfer using the cart (page 9, lines 13-14; 27, 28, FIG. 3); and disabling the cart display of such information at the end of the gratis trial period unless, by that point of play, an act representing commitment of payment for completion of the round with enabled cart display has been detected (page 9, line 19 - page 10, line 8; 29, 30, 31, 32, FIG. 3).

Another variation of the invention is a method (claim 7) for administering use of a golf course information system (page 1, line 18 - page 3, line 11) implemented in golf carts or other roving units (page 2, lines 13-21; 15, FIG. 1B) with display monitor (14, FIG. 1B) adapted to provide display of any or all information from among course and hole layout, course features and distance (FIG. 1A) to assist a golfer in play of the golf course (10, FIG. 1A), or of specific interest to the individual from external networks including tournament and individual scoring, stock quotations and email (page 5, lines 4-8). This method includes invoking a gratis trial period less than an entire round of play of the course (page 9, lines 11-20; e.g., the first two holes 12 and 13, FIG. 1A) during which the cart display of such information is activated for a golfer commencing use of the cart (page 9, lines 13-14; 27, 28, FIG. 3); and automatically maintaining the cart display of such information active for completion of the round if, by the end of the gratis trial period, a commitment of payment

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therefor has been made by a golfer using the cart (page 11, lines 5 - 21; 29, 30, 31, 32, FIG. 3).

Still another variation of the invention is a method (claim 8) for administering use of an information system (page 1, line 18 - page 3, line 11) implemented in golf carts (page 2, lines 13-21; 15, FIG. 1B) adapted to provide access to information available through the system to golfers using the carts during play of a golf course (10, FIG. 1A). The method includes establishing a trial period at the start of play with a cart, less than an entire round of play of the golf course (page 9, lines 11-20; e.g., the first two holes 12 and 13, FIG. 1A), during which at least the bulk of the information is available for access by the cart user (page 12, lines 11-16), and ending access to the available information by the cart user at the end of the trial period absent a payment authorization for continued access during play of the round (page 9, line 19 - page 10, line 8; page 12, lines 16-17; 29, 30, 31, 32, FIG. 3).

Another aspect of the invention resides in apparatus (claim 9) for administering use of an information system (page 1, line 18 - page 3, line 11) implemented in golf carts (page 2, lines 13-21; 15, FIG. 1B) adapted to provide access to information available through said system to golfers using the carts during play of a golf course (10, FIG. 1A). The apparatus includes a cart-implemented information system (page 13, lines 9-21; 14, FIG. 1B) that automatically establishes a trial period at the start of play of a round of golf with a cart on the golf course, less than an entire round, during which substantially all of the information is available for access by the cart user (page 12, line 18 - page 13, line 2; 27, 28, FIG. 3), and entry means for detecting payment authorization by the end of the trial period for enabling continued access to said available information beyond the end of the trial period (page 7, lines 12-14; page 11, lines 16-21; page 12, lines 1-8; page 13, lines 3-4; page 14, line 5 - page 15, line 2; 16, FIGS. 1A, 1C; 17, FIG. 2A; 18, FIG. 2B; 19, FIG. 2C).

Another aspect of the invention resides in a method (claim 10) of controlling the availability of information presented to a user of a golf course mobile navigation system (page 1, line 18 - page 3, line 11) from within the system during play of the course (10, FIG. 1A), wherein at least some of the information is presented relative to the real-time position of the

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system as it traverses the course (page 2, lines 2-21; page 4, line 20 - page 5, line 4), to enhance play. The method includes providing a gratis trial period for full availability of the information to the user on commencing use of the system, less than an entire round of play of the course (page 9, lines 11-20; page 12, lines 14-16; e.g., the first two holes 12 and 13, FIG. 1A; 26, 27, 28, 29, FIG. 3), and automatically curtailing the amount of said information available to the user at the end of said trial period, unless payment authorization is given for continued full availability thereafter (page 7, lines 4-9; page 12, lines 16-17).

Still another aspect of the invention resides in apparatus (claim 11) for controlling the availability of information presented to a user of a golf course mobile navigation system (page 1, line 18 - page 3, line 11) from within the system during play of the course (10, FIG. 1A), wherein at least some of said information is presented relative to the real-time position of the system as it traverses the course (page 2, lines 2-21; page 4, line 20 - page 5, line 4), to enhance play. The apparatus includes means adapted to implement a trial period for full availability of the information to the user on commencing use of the system, less than an entire round of play of the course (page 9, lines 11-20; page 12, lines 14-16, line 18 - page 13, line 2; e.g., the first two holes 12 and 13, FIG. 1A; 26, 27, 28, 29, FIG. 3), and means responsive to completion of the trial period without a commitment to pay for continued full availability of the information in further play of the round, for automatically curtailing the amount of information available to the user from the system thereafter (page 7, lines 4-9; page 13, lines 2-4; page 15, lines 13-18; 11, FIG. 1A).

In contrast, Cooper makes no suggestion or teaching of using a gratis trial period in a golf course distance measuring and navigation system, nor would anyone be motivated by the disclosure of Cooper's patent to seek to use his techniques in a golf course environment. Applicant's invention resides not merely in invoking or establishing a gratis trial *period*, which exists while the user (the golfer) is engaged in the actual play of a round -- but not a complete round -- but in a method and means to end that *period* or to allow the use of the cart-based system for the remainder of play of the round, based on an election by the golfer/user of

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